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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ANDERSON, JERRY W

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,866	Applicant(s) CURUTCHET FERREIRA ET AL.	
	Examiner JERRY W. ANDERSON	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/05/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The abstract of the disclosure is objected to because the abstract contains more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the applicant is not claiming the concentration of salt solution. It is not clear whether the 20 % maximum refers to the amount of brine solution, or the amount of salt, relative to the weight of the meat.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shults, G.W., et al., in view of Seiffhart, J.B., and further in view of Jespersen, R.R.

9. Shults, G.W., et al., '227) discloses:

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- a. Muscle portions of the beef may deboned and processed, (line 44, col. 2, '227)
- b. Brine 1815 gms NaCl, 20 gms sodium nitrite, in 8,650 gms water, (line 30-35, col. 3, '227)
- c. Brine 15 % by wt of meat, (line 57, col. 1, '227)
- d. Cutting of lean muscle meat . . . carcass of beef . . . deboning . . . removal of fat . . . into chunks, (lines 51-54, col. 2, '227)
- e. Beef stuffed into flexible film containers . . . heat in water at about 90-100°C, 75- 100 minutes (lines 2-3, col. 3, '227)
- f. Freeze to -25°C \pm 20°C, (line 17, col. 3, '227)
- g. Sterilize . . . high energy ionizing radiation . . . at 2.0-6.0 megarads, (lines 18-21, col. 3, '227)
- h. Sodium chloride . . . 0.5%-4% in final product, (lines 38-39, col. 3, '227)
- 10. Seiffhart ('704) discloses:
 - i. Apparatus for treating meat . . . simultaneously shaking meat while tumbling it in a . . . container . . . refrigerated and under vacuum, (lines 5-18, col. 2, '704)
 - j. Increase adsorption of liquids or additives, (lines 9-10, col. 1, '704)
 - k. Reduce time necessary,(line 28, col. 2, '704)
- 11. Jespersen ('426) discloses;
 - l. Pickling of meat carried out over lengthy cycle, (lines 25-30, col. 1, '426)

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- m. Speed up pickling by injection of pickling mixture into meat, (lines 45-48, col. 1, '426)
 - n. processing 15 hours (lines 45-48, col. 1, '426)
 - o. processing 30 hours (lines 1-2, col. 1, '426),
 - p. Preserve appearance of the meat (lines 49, col.1, '704)
12. Shults discloses the claimed invention, including cutting of lean muscle meat from carcass of beef , deboning, removing fat, into chunks, (lines 51-54, col. 2, '227) using a brine 1815 gms NaCl, 20 gms sodium nitrite, in 8,650 gms water, (line 30-35, col. 3, '227), at 15 % wt percent of the meat, (line 14, col. 4, '227) after brining, place meat in film container cooking in water at 90-100°C, (lines 2-3, col. 3, '227) freezing to -25°C \pm 20°C, (line 17, col. 3, '227) sterilize with high energy ionizing radiation at 2.0-6.0 megarads, (lines 18-21, col. 3, '227), but lack injection of the brine, and tumbling meat for up to 24 hours, under low pressure and refrigeration. Jespersen teaches injection of brine into meat, (lines 45-48, col. 1, '426) stirring the meat for lengthy cycle (lines 25-30, col. 1, '426), processing 15 hours (lines 45-48, col. 1, '426) processing 30 hours (lines 1-2, col. 1, '426), but lack refrigeration and vacuum. Seiffhart teaches the use of a tumbling massager for meat using vacuum and refrigeration. (lines 5-18, col. 2, '704)
13. Shults, Jespersen, and Seiffhart are analogous art in that all are concerned with the preparation of meat for human consumption.
14. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the methodology of Shults by the use of the injection of brine of

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Jespersion and the use of his massager, and to incorporate the refrigeration and vacuum of Seiffhart, in order to have a method for preserve the appearance of the meat surfaces and to increase the adsorption of fluids or additives. (lines 9-10, col. 1, '704) and to decrease the time necessary for the pickling process.

15. One of ordinary skill in the art would know that 20 megarads is equivalent to 20 kGys.

16. One of ordinary skill in the art would find that the procedure of Shults of placing the meat in film container at 90-100° for 75-100 minutes performs substantially the same result in an equivalent manner as the applicant's heating to 70-85°C and holding for a time of 15-30 minutes.

17. One of ordinary skill in the art would find it obvious that while Seiffhart was silent as to the pressure and the temperature, that it is the normal practice in the meat processing industry to keep uncooked meat at a low temperature, and 0-3°C is a recommended range. As to the pressure, it would also be obvious that placing a vacuum on a large container, containing substantial quantities of water that the resultant pressure would be significantly above zero, and would be near the range of the applicant's values.

18. Regarding claim 2, Shults, Seiffhart, and Jespersen disclose the claimed invention including, the brine solution is about 20.2 % NaCl, and the sodium nitrite is about 0.2 %.

19. Regarding Claim 3, Shults, Seiffhart, and Jespersen disclose the claimed invention including, using the refrigerated vacuum system the time would be reduced

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substantially, and one of ordinary skill in the art would find it obvious that the time required for the massaging be reduced from 24-20 hours to 8 or less.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY W. ANDERSON whose telephone number is (571)270-3734. The examiner can normally be reached on 7 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jwa

/KEITH D. HENDRICKS/
Supervisory Patent Examiner, Art Unit 1794